

Chapter 20 FAIR HOUSING CODE
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20.01 DECLARATION OF POLICY . (Am. #2199; MSC '90)

It is the policy of the City, pursuant to the United States and Wisconsin Constitutions, and also its power to protect the public health, safety and general welfare, that all persons, regardless of sex, race, color, sexual orientation, handicap, religion, national origin, familial status, sex or marital status of the person maintaining a household, lawful source of income, age or ancestry, are entitled to fair and equal access to housing and, to that end, the City hereby enacts this chapter which prohibits any person not herein exempted from discriminating against any other person by impairing to any degree access to any housing or housing accommodations on the basis of sex, race, color, sexual orientation, handicap, religion, national origin, familial status, sex or marital status of the person maintaining a household, lawful source of income, age or ancestry, and creates a Commission with the power and duty to enforce equal opportunity in housing for all citizens of the City.

20.02 COMMISSION. (Am. #1482)

- (1) ADMINISTRATION OF FAIR HOUSING CODE. (Am. #2915; #3099) The purposes and provisions of this chapter shall be administered by the Beloit Equal Opportunities and Human Relations Commission established by §1.82 of this Municipal Code and, where necessary, the City Attorney.
- (2) POWERS AND DUTIES. (Am. #2915) In administering this chapter, the Equal Opportunities and Human Relations Commission shall have the following powers and duties:
- (a) Adopt, amend, publish and rescind rules for governing its meetings and hearings.
 - (b) Adopt, amend, publish and rescind regulations consistent with and for the enforcement of this chapter.

- (c) Appoint such other employees, agents and staff as are necessary to promote the purposes of this chapter, subject to the approval of the City Manager, subject to City Council budgetary approval, and to prescribe their duties. (Am. #2334)
- (d) Receive and investigate all complaints alleging any discriminatory practice prohibited by this chapter.
- (e) Appoint mediators who initially shall seek a settlement agreeable to both the complainant and the respondent by means of informal conferences, any compensation therefor subject to the City Manager's approval and City Council budgetary approval. (Am. #2334)
- (f) If necessary, hold hearings after efforts at settlement, based on complaints made against any person and a determination of probable cause; administer oaths and take testimony; compel the production of books, papers and any other documents relating to any matters involved in the complaints; and subpoena witnesses and compel their attendance. If a witness either fails or refuses to obey a subpoena issued by the Commission, the Commission may order attendance. At any time after it has issued such an order, the Commission may petition a court of competent jurisdiction for its enforcement.
- (g) To issue, after hearing, such final orders as are necessary to promote the purposes of this chapter.
- (h) Issue temporary orders effective for a maximum of 20 days, except in extraordinary circumstances, restraining the respondent from taking any action which would tend to render ineffectual or unenforceable any order which the Commission might issue.
- (i) Refer orders, pursuant to §20.05, to the City Attorney to be enforced by him in the name of the City.
- (j) Make available to the public in writing copies of: (Am. #2915)
 - 1. Transcripts of all of its proceedings, except initial settlement efforts by its mediators.
 - 2. All temporary and final orders.
 - 3. All decisions and opinions rendered and budgetary provisions to be made therefor.
- (k) Require a written report of the manner of compliance with any final order it may issue.
- (l) Recommend to the Council any budget or legislation necessary to further promote the purposes of this chapter and file annual written reports of its work with the City Clerk.
- (m) Grant actual damages or arrange to have adjudicated in court at agency expense the award of actual damages to an aggrieved person. (Cr. #2334)

20.03 PROHIBITED ACTS .

- (1) It shall be a prohibited discriminatory practice for any person to: (Rep. & recr. #2334)
 - (a) Refuse to sell or rent based on discrimination because of sex, race, color, sexual orientation, handicap, religion, national origin, familial status, sex or marital status of the person maintaining a household, lawful source of income, age or ancestry.
 - (b) Refuse to negotiate for a sale or rental based on discrimination because of sex, race, color, sexual orientation, handicap, religion, national origin, familial status,

sex or marital status of the person maintaining a household, lawful source of income, age or ancestry.

- (c) Otherwise make unavailable or deny a dwelling based on discrimination because of sex, race, color, sexual orientation, handicap, religion, national origin, familial status, sex or marital status of the person maintaining a household, lawful source of income, age or ancestry.
 - (d) Discriminating in the terms, conditions or privileges of sale or rental of a dwelling or in the provision of services or facilities in connection therewith based on discrimination because of sex, race, color, sexual orientation, handicap, religion, national origin, familial status, sex or marital status of the person maintaining a household, lawful source of income, age or ancestry.
 - (e) Advertising in a manner that indicates any preference, limitation or discrimination because of sex, race, color, sexual orientation, handicap, religion, national origin, familial status, sex or marital status of the person maintaining a household, lawful source of income, age or ancestry.
 - (f) Falsely representing that a dwelling is not available for inspection, sale or rental because of discrimination because of sex, race, color, sexual orientation, handicap, religion, national origin, familial status, sex or marital status of the person maintaining a household, lawful source of income, age or ancestry.
 - (g) Coercion, intimidation, threats or interference with any person in the exercise or enjoyment of; on account of his having exercised or enjoyed; or on account of his or her having aided or encouraged any other person in the exercise of enjoyment of any right granted or protected by this chapter.
 - (h) Blockbusting based on representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular sex, race, color, sexual orientation, handicap, religion, national origin, familial status, sex or marital status of the person maintaining a household, lawful source of income, age or ancestry.
 - (i) No person or other entity whose business includes engaging in residential real estate related transactions shall discriminate against any person in making available such a transaction or in the terms or conditions of such a transaction because of sex, race, color, sexual orientation, handicap, religion, national origin, familial status, sex or marital status of the person maintaining a household, lawful source of income, age or ancestry. Such transactions include:
 - 1. The making or purchasing of loans or the provision of other financial assistance for purchasing, constructing, improving, repairing or maintaining a dwelling or the making or purchasing of loans or the provision of other financial assistance secured by residential real estate; or
 - 2. The selling, brokering or appraising of residential real property.
- (2) To deny a person access to or membership or participation in a multiple listing service, real estate brokers' organization or other service because of sex, race, color, sexual orientation, handicap, religion, national origin, familial status, sex or marital status of the person maintaining a household, lawful source of income, age or ancestry.
- (3) No person shall do or refuse to do any act which to any degree affects the purpose of any activity prohibited by this section. No person shall harass, threaten, harm, damage or otherwise penalize any individual, group or business because he has complied with the provisions of this section, because he has exercised his rights under this section or

enjoyed the benefits of this section or because he has made a charge, testified or assisted in any manner in any investigation or in any proceeding hereunder or has made any report to the Commission. (Am. #1692)

- (4) Nothing herein shall prohibit an owner or his agent from requiring that any person who seeks to buy, rent, lease, finance or construct housing supply information concerning his financial and business status which shall constitute to be valid criteria, but not concerning sex, race, color, sexual orientation, handicap, religion, national origin, familial status, sex or marital status of the person maintaining a household, lawful source of income, age or ancestry, except for statistical purposes only. (Am. MSC '90)

20.035 DISCRIMINATION BECAUSE OF HANDICAP . (Cr. #2334)

- (1) In addition to the prohibitions of discriminatory acts under §20.03 of this chapter, it shall be a prohibited discriminatory practice on the basis of handicap for any person to:
- (a) Discriminate in the sale or rental or otherwise making unavailable or denying a dwelling to any buyer or renter because of a handicap of that buyer or renter; of a person residing in or intending to reside in that dwelling after it is sold, rented or made available; or of any person associated with the buyer or renter.
 - (b) Discriminate against any person in the terms, conditions or privileges of sale or rental of a dwelling or in the provision of services or facilities in connection with the dwelling because of a handicap of that person; of a person residing in or intending to reside in the dwelling after it is sold or rented or made available; or of any person associated with that person.
- (2) For purposes of this section, discrimination includes:
- (a) A refusal to permit at the expense of the handicapped person reasonable modifications of existing premises occupied or to be occupied by the handicapped person if the modifications may be necessary to afford the handicapped person full enjoyment of the premises, except that in the case of a rental, the landlord may, where it is reasonable to do so, condition permission for a modification on the renter's agreeing to restore the interior and exterior of the premises to the condition that existed before the modification, reasonable wear and tear excepted.
 - (b) A refusal to make reasonable accommodations in rules, policies, practices or services, when such accommodations may be necessary to afford a handicapped person equal opportunity to use and enjoy a dwelling.
 - (c) In connection with the design and construction of covered multi-family dwellings for first occupancy after March 13, 1991, a failure to design and construct dwellings in such a manner that:
 - 1. The dwellings have at least one building entrance on an accessible route, unless it is impractical to do so because of the terrain or unusual characteristics of the site.
 - 2. With respect to dwellings with a building entrance on an accessible route:
 - a. The public use and common use portions of the dwellings are readily accessible to and usable by handicapped persons.
 - b. All the doors redesigned to allow passage into and within all premises are sufficiently wide to allow passage by handicapped persons in wheelchairs.
 - c. All premises within covered multi-family dwelling units contain an accessible route into and through the dwelling; light switches, electrical

outlets, thermostats and other environmental controls are in accessible locations; there are reinforcements in the bathroom walls to allow later installation of grab bars; and there are usable kitchens and bathrooms such that an individual in a wheelchair can maneuver about the space.

- (3) Compliance with the appropriate requirements of the American National Standard for buildings and facilities providing accessibility and usability for physically handicapped people (commonly cited as "ANSI A117.1-1986") suffices to satisfy the requirements of this section.
- (4) As used in this section, the term "covered multi-family dwellings" means buildings consisting of 4 or more units if such buildings have one or more elevators and ground floor units in other buildings consisting of 4 or more units.

20.04 EXEMPTIONS.

- (1) Nothing in this chapter shall prohibit a religious organization, association or society or any nonprofit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association or society from limiting the sale, rental or occupancy of dwelling which it owns or operates for other than a commercial purpose to persons of the same religion or from giving preference to such persons, unless membership in such religion is restricted on account of race, color or national origin. Nor shall anything in this chapter prohibit a private club not in fact open to the public, which as an incident to its primary purpose or purposes provides lodgings which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members. (Rep. & recr. #2366)
- (2) No prohibition in this chapter shall apply to an offer or advertisement to lease or rent or to the lease or rental of single occupancy rooms in an owner occupied dwelling, provided the number of persons other than the owner and his immediate family who dwell therein does not exceed 2.
- (3) Nothing in this chapter requires that a dwelling be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others. The prohibition in this chapter against discrimination based on familial status does not apply to housing for older persons. (Cr. #2199)
 - (a) As used in this subsection, "housing for older persons" means housing:
 - 1. Provided under any State or federal program that is specifically designed and operated to assist elderly persons as defined in the State or federal program;
 - 2. Intended for and solely occupied by persons 62 years of age or older; or
 - 3. Intended and operated for occupancy by at least one person 62 years of age or older per unit. Housing for older persons under this paragraph shall contain at least the following factors: (Am. #2334)
 - a. Significant facilities and services specifically designed to meet the physical or social needs of older persons or, if the provision of such facilities and services is not practicable, the provider may demonstrate that such housing is necessary to provide important housing opportunities for older persons.
 - b. At least 80% of the units are occupied by at least one person 62 years of age or older per unit.

- c. The publication of and adherence to policies and procedures which demonstrate an intent by the owner or manager to provide housing for persons 62 years of age or older.
- (b) Housing shall not fail to meet the requirements for housing for older persons by reasons of:
 - 1. Persons residing in such housing as of the date of enactment of this subsection who do not meet the age requirements of subpars. 3.b. or c. above, provided that new occupants of such housing meet the age requirements of par. (a) above.
 - 2. Unoccupied units, provided that such units are reserved for occupancy by persons who meet the age requirements of par. (a) above.
- (4) Prohibition of discrimination does not limit the applicability of restrictions regarding the maximum number of occupants permitted to occupy a dwelling established by Ch. 7 of this Municipal Code. (Cr. #2334)

20.05 ENFORCEMENT PROCEDURES.

- (1) COMPLAINT. Any complaint alleging any discriminatory practice prohibited by this chapter shall be in writing. Such complaints may be initiated by the complainant, who may mail his complaint to the Commission or dictate it to an agent of the Commission or any agent of the complainant, including any agent who himself has solicited offers to buy, lease, rent or in any other manner seek access to any interest in any part of any housing or housing accommodation, for the complainant or any member of the Commission on his own initiative. All complaints shall contain the following:
 - (a) The name and address of the complainant.
 - (b) The name and address of the respondent or respondents.
 - (c) A statement setting forth the particulars of the alleged discrimination or discriminatory practice.
 - (d) The date or dates of the alleged discrimination or discriminatory practice.
- (2) WHERE FILED. Complaints shall be filed with the Commission by the complainant, his authorized agent or a member or authorized agent of the Commission and may be filed in person or by mail.
- (3) WHEN FILED. (Am. #2366) Complaints alleging any discriminatory practice prohibited by this chapter shall be filed no later than one year after the alleged act occurred or terminated.
- (4) NOTICE TO COMPLAINANT. Upon the filing of a complaint, the Commission shall serve notice upon the complainant acknowledging the filing and advising the complainant of the time limits and choice of forums provided under the law.
- (5) NOTICE TO RESPONDENT. (Am. #2366) Upon the filing of a complaint, the Commission shall promptly serve notice on the respondent or person charged with the commission of a discriminatory housing practice advising of his procedural rights and obligations under the law or ordinance together with a copy of the complaint.
- (6) AMENDMENT AND WITHDRAWAL. A complaint may be amended or withdrawn at any time with and subject to the approval of the Commission and under such terms as the Commission shall direct, notice of amendment or withdrawal shall be given to each party.
- (7) ANSWER. A respondent may file an answer to a complaint.

(8) INVESTIGATIONS, HEARINGS, DETERMINATIONS, APPEAL.

(a) Investigations.

1. The Commission shall commence proceedings with respect to the complaint before the end of the 30th day after receipt of the complaint.
2. The Commission shall investigate the allegations of the complaint and complete the investigation in no more than 100 days after receipt of the complaint, unless it is impracticable.
3. If the Commission is unable to complete the investigation within 100 days, it shall notify the complainant and respondent in writing of the reasons for not doing so.
4. The Commission shall make final administrative disposition of a complaint within one year of the date of receipt of a complaint, unless it is impracticable to do so. If the Commission is unable to do so, it shall notify the complainant and respondent in writing of the reasons for not doing so.
5. Any conciliation agreement arising out of conciliation efforts by the Commission shall be an agreement between the respondent and the complainant and shall be subject to the approval of the Commission.
6. Each conciliation agreement shall be made public, unless the complainant and respondent otherwise agree and the Commission determines that disclosure is not required to further the purposes of this chapter.
7. The investigation shall include the preparation of a final investigative report containing:
 - a. The names and dates of contacts with witnesses.
 - b. A summary and dates of correspondence and other contacts with the aggrieved person and the respondent.
 - c. A summary description of other pertinent records.
 - d. A summary of witness statements.
 - e. Answers to interrogatories.
8. The Commission shall conduct compliance reviews of all settlements, conciliation agreements and orders issued by or entered into to resolve discriminatory housing practices.

(b) Determinations and Appeal. Should a determination be made that there is no probable cause to believe discrimination in violation of this chapter has been, or is being committed, the complainant shall be afforded an opportunity to appeal such decision to the full Commission. Should the full Commission decide that there is no probable cause, the complainant may appeal to the Circuit or any Rock County court.

(c) Elimination of Discriminatory Practices. Should a determination be made that there is probable cause to believe discrimination in violation of the chapter has been or is being committed, an agent designated by the Commission shall endeavor by means of conference, conciliation or persuasion to eliminate the alleged discriminatory practice.

(d) Notice. In any case where efforts at settlement have failed to eliminate the discriminatory practice alleged by the complainant, the Commission shall promptly cause to be issued a notice of hearing to determine the merits of the complaint.

(e) Findings of Fact and Conclusions of Law; Appeal.

1. If after hearing and on the basis of the official record made therein, the Commission finds that the respondent has engaged in or is engaging in any discrimination prohibited by this chapter, it shall make written findings of facts and conclusions thereon and shall order such action to be taken by the respondent and, where necessary, by the complainant, as will effect the purposes of this chapter by eliminating the discrimination found.
 2. A certified copy of such recommended findings, conclusions and orders, together with a summary of the findings of fact, shall be mailed to the last known address of the complainant and respondent.
 3. If within 20 days following the mailing of the decision the Commission does not receive notice of appeal, the findings, conclusions and orders of the Commission shall be conclusive. Notice thereof to respondent shall be made by certified mail or, in lieu thereof, by personal service.
 4. After final determination by the Commission either party may, within 30 days, appeal by certiorari to a court of competent jurisdiction.
- (9) DISQUALIFICATION OF COMMISSIONERS. No Commissioner, agent or investigator who has filed a complaint on his own initiative shall participate in any subsequent hearing or proceeding except as a witness, nor shall he participate in the deliberations of the Commission in such case.
- (10) JUDICIAL ENFORCEMENT. Whenever in the judgment of the Commission, judicial enforcement of a Commission order is necessary, the Commission shall, in writing, request the City Attorney to commence proceedings in a court of competent jurisdiction to enforce such orders in the name of the City. Upon receipt of any such request, the City Attorney shall seek enforcement of such orders in a court of competent jurisdiction.
- (11) TESTING. The Commission, upon complaint may test and investigate for the purpose of establishing violations of this chapter and conduct investigations and studies to carry out the purpose of this chapter.
- (12) CIVIL ENFORCEMENT. This chapter may be enforced by an aggrieved person by the commencement of an action in an appropriate court not less than one year after the occurrence or termination of an alleged discriminatory housing practice. The court is empowered to:
- (a) Award the plaintiff actual and punitive damages.
 - (b) Grant as relief, as it deems appropriate, any temporary or permanent injunction, temporary restraining order or other order.
 - (c) Allow reasonable attorney's fees and costs.
- (13) REMOVE TO CIRCUIT COURT. (Cr. #2366) A complainant, aggrieved person or respondent may elect to remove the action to circuit court after a finding has been made that there is reasonable cause to believe that a violation of this section has occurred.

20.06 REMEDIES AND PENALTIES.

- (1) REMEDIES. The Commission shall, after investigation and hearing, issue and implement such orders as may be necessary to effect the purposes of this chapter. Such orders may include:

- (a) Cease and desist orders.
- (b) Affirmative action by the respondent and, where necessary, by the complainant.
- (2) PENALTY. Any person who violates this chapter, or any lawful order issued hereunder, shall, on order of the Commission, forfeit to the City not less than \$50 nor more than \$200, and in default of payment, may be imprisoned in the County jail not more than 30 days. Each day such violation continues shall constitute a separate offense. Payment of any such forfeiture shall be stayed during the period in which any appeal may be taken and during the pendency of any appeal.

20.07 DEFINITIONS.

Accommodation. Any room, apartment, house, mobile home, building or structure, any part of which is used for human habitation on a temporary or permanent basis.

Commission. (Am. #2915) The Beloit Equal Opportunities and Human Relations Commission.

Commissioner. (Am. #1482; #2915) A member of the Beloit Equal Opportunities and Human Relations Commission.

Compensatory Damages. Actual damages, but shall exclude punitive damages.

Complainant. Any person who files a complaint with the Commission pursuant to §20.05.

Discriminate, discrimination and discriminating. (Am. MSC '90) Any type of act or refusal to act prohibited by §20.03 which, unless exempted by §20.04, is based to any degree on a consideration by the actor of the sex, race, color, sexual orientation, handicap, religion, national origin, familial status, sex or marital status of the person maintaining a household, lawful source of income, age or ancestry of another person.

Familial Status. (Cr. #2199)

- (a) One or more individuals, who have not attained the age of 18 years, being domiciled with:
 - 1. A parent or another person having legal custody of such individual or individuals; or
 - 2. The designee of such parent or other person having such custody with the written permission of such parent or other person.
- (b) The protections afforded against discrimination on the basis of familial status shall apply to any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of 18 years.

Handicap. (Cr. #2199) With respect to a person:

- (a) A physical or mental impairment which substantially limits one or more of such person's major life activities;
- (b) A record of having such an impairment; or
- (c) Being regarded as having such an impairment, but such term does not include current, illegal use of or addiction to a controlled substance, as defined in §1.02 of the Controlled Substances Act (21 U.S.C. 802).

Hearing. A hearing under the jurisdiction of the Commission, except where otherwise indicated.

Housing. Any part of any building, structure, mobile home or land, whether or not vacant.

Owner Occupied Dwelling. A building used for human habitation in which the owner thereof maintains his permanent living quarters.

Person. Any individual, partnership, labor or other association, corporation, legal representative, receiver, trustee in bankruptcy or other fiduciary, or the lessee, proprietor, manager, employee or any other agent of any such person.

Probable Cause. Reasonable grounds to believe that a violation of §20.03, not exempted by §20.04, may have occurred or may be occurring.

Respondent. Any person who, according to the allegations contained in any complaint filed with the Commission, has committed any discriminatory practice prohibited by this chapter and has been named in the complaint as a respondent.

Single Occupancy Room. Any room which the owner has leased or rented or in any way offered to lease or rent to a sole individual, provided the owner permanently occupies living quarters in the same dwelling.

20.08 LIBERAL CONSTRUCTION; SEVERABILITY .

- (1) The provisions of this chapter shall be liberally construed in order to promote the purposes and provisions contained herein.
- (2) The provisions of this chapter are severable and, if any provision, sentence, clause, section or part thereof is held illegal, invalid, unconstitutional or inapplicable to any person or circumstance, such illegality, invalidity, unconstitutionality or inapplicability shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of the chapter or their application to other persons or circumstances. It is hereby declared to be the legislative intent that this chapter would have been adopted if such illegal, invalid, unconstitutional or inapplicable provision, sentence, clause, section or part thereof had not been included therein, and if the person or circumstances to which the chapter or any part thereof is inapplicable had been specifically exempted therefrom.
- (3) It is the intention of the City Council that this be interpreted consistently with Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601-3619) as amended and with regulations applicable thereto (24 C.F.R. Parts 14, 100, 103, 110, 115 and 121), except where the language of this subsection clearly requires a different interpretation. (Cr. #2199)

20.09 CUMULATIVE EFFECT . (Cr. #1692)

This code is cumulative in its legal effect and is not in lieu of any and all other legal remedies which the person aggrieved may pursue.